IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.11.2005

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.K.KRISHNAN

W.P.NO.12269 of 2002

A. Selvaraj .. Petitioner

vs.

1. The Central Administrative Tribunal,
   Chennai Bench,
   Reptd by its Registrar
   Chennai-600 104.

2. The Union of India
   Reptd by the Chief Commissioner of
   Central Excise,
   Confident Section
   121, Uttamar Gandhi Road,
   Chennai-600 034.

3. The Commissioner of Customs &
   Central Excise,
   1-A, Williams Road,
   Trichy-1

4. The Deputy Commissioner (P & V),
   Office of the Collector of Customs &
   Central Excise,
   Trichy.

5. The Assistant Commissioner of
   Central Excise,
   Thanjavur.

6. The Superintendent of Central
   Excise, Thiruvarur. .. Respondents

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Petition under Article 226 of the Constitution of India for the issuance of a writ of Certiorarified Mandamus to call for the records of the Central Administrative Tribunal, Chennai Bench, in M.A.No.496 of 2001 and R.A.No.32 of 2001, the orders dated 23.8.2001 and 30.10.2001 passed therein, and to direct the 1st respondent-Tribunal to take up the main application and dispose of the same in accordance with law.

For petitioner :: Mr.V.Ramasubramanian
For R2 to R6 :: Mr.P.Wilson
Addl.Central Govt.Standing Counsel

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O R D E R

(Order of the Court was made by P.Sathasivam, J.)

Aggrieved by the orders of the Central Administrative Tribunal, Chennai, in M.A.No.496 of 2001 and R.A.No.32 of 2001, dated 23.8.2001 and 30.10.2001 respectively, the petitioner has filed the above writ petition to quash those orders and issue a direction to the Tribunal to take up the main Application and dispose of the same in accordance with law and on merits.

2. Heard learned counsel for the petitioner as well as the contesting respondents-2 to 6.

3. It is seen that originally, the petitioner filed O.A.No.838 of 1999 before the Central Administrative Tribunal, Chennai Bench, to quash the proceedings in C.No.II/9/8/94-M.20 (Admn.), dated 24.03.1999, and also for a direction to the respondents to expunge the adverse remarks contained in ACR in C.No.11/9/794CP/515. The said Original Application No.838 of 1999 came to be dismissed as withdrawn on 22.9.2000 with liberty to file a fresh Original Application on the ground of changed circumstances. The petitioner filed a subsequent Application in M.A. No.496 of 2001 to condone the delay of 324 days in filing the fresh Original Application. In the affidavit filed in support of the said Application, it is stated that due to transfer from Nagapattinam to Pattukottai and in view of other engagements in duty as well as personal works, the applicant could not file the fresh Original Application in time. It is also stated that the delay of 324 days is neither wilful nor wanton. The Tribunal, by order dated 23.8.2001, after finding that there is no sufficient ground to condone the delay, dismissed the said Application. The petitioner has also filed a

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Review Application in R.A.No.32 of 2001 on 03.10.2001, which was also dismissed by the very same Bench on 30.10.2001. Challenging these orders, the petitioner has filed the above Writ Petition.

4. Learned Additional Central Government Standing Counsel appearing for the Department, by drawing our attention to the provisions relating to limitation, namely, Section 21 of the Administrative Tribunals Act, 1985, initially contended that in the absence of sufficient materials/cause, the Tribunal is justified in dismissing the condonation petition. He also contended that in view of Rule 17 of the Central Administrative Tribunal (Procedure) Rules 1987, the Review Application filed by the applicant on 3.10.2001 is also hopelessly barred by limitation, in any event, the Tribunal has rightly dismissed the said Petition. According to him, in view of the statutory bar, as mentioned in the above referred provisions, the Tribunal is fully justified and there is no valid ground for interference.

5. It is not in dispute that the Original Application, namely, O.A. No.838 of 1999, was dismissed as withdrawn on 22.9.2000. No doubt, the applicant was given liberty to file a fresh Original Application and it is not in dispute that he had filed the subsequent Original Application with a delay of 324 days. The only reason given by him is that due to his transfer from Nagapattinam to Pattukottai and also because of his personal works, he could not file the fresh Original Application in time. As rightly pointed out, having obtained liberty to file fresh Original Application, it is but proper for the applicant to have approached the Tribunal within the prescribed period. The fact remains, the applicant not only failed to file the fresh Original Application within the time but also failed to furnish sufficient cause for not making the application within the prescribed period. The counsel appearing for the contesting respondents is also right in pointing out that the Review Application filed by the applicant is also hit by Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987.

6. Looking at any angle, in the absence of sufficient cause, we are of the view that the orders passed by the Tribunal cannot be faulted with and there is no valid ground for interference. Writ Petition fails and the same is dismissed.

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Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Registrar, Central Administrative Tribunal
   Chennai Bench, Chennai-600 104.

2. The Chief Commissioner of Central Excise.
   The Union of India, Confident Section
   121, Uttamar Gandhi Road, Chennai-600 034

3. The Commissioner of Customs & Central Excise,
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4. The Deputy Commissioner (P & V)
   Office of the Collector of Customs & Central Excise,
   Trichy

5. The Assistant Commissioner of Central Excise,
   Thanjavur

6. The Superintendent of Central Excise, Thiruvarur.

+ 1 cc to Mr.P.Wilson, SCGSC (RR1 to 6) SR No.46195

+ 1 cc to Mr.V. Rama Subramanian, Advocate SR No.46232

VC(CO)
SR/29.11.2005

W.P.NO.12269 OF 2002

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